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Harmonization of Transfer Pricing Tax Provisions in the Enforcement of Double Taxation Avoidance Agreements (DTAs) in Response to Base Erosion and Profit Shifting (BEPS) in Accordance with the Principles of Pancasila

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Abstract
Economic globalization has increased the intensity of cross-border transactions conducted by multinational corporations, thereby amplifying the potential for transfer pricing practices exploited to engage in Base Erosion and Profit Shifting (BEPS). These practices erode national tax bases, give rise to cross-jurisdictional tax disputes, and create legal uncertainty in the application of Double Taxation Avoidance Agreements (DTAs). The issue is further complicated by the ongoing disharmony between national tax laws and international tax norms, particularly regarding the interpretation of the arm's-length principle, beneficial ownership, and permanent establishment. This study aims to analyze the harmonization of tax provisions regarding transfer pricing and DTAs in law enforcement, identify the causes of disharmony in the resolution of tax disputes, and formulate a legal harmonization model capable of providing legal certainty and fiscal justice in addressing BEPS. This study employs a normative legal research method using legislative, conceptual, historical, comparative, and case-based approaches. A qualitative analysis was conducted on primary, secondary, and tertiary legal materials, including legislation, tax treaties, the OECD Transfer Pricing Guidelines, the Multilateral Instrument (MLI), Tax Court decisions, as well as legal doctrines and literature. The results of the study indicate that the disharmony between national and international legal norms leads to differences in interpretation, inconsistencies in the application of the law, and disparities in rulings in transfer pricing disputes. This study produced a legal harmonization model that integrates the strengthening of regulations, tax administration, tax audits, dispute resolution through Advance Pricing Agreements (APAs) and Mutual Agreement Procedures (MAPs), the implementation of the MLI, and the institutional strengthening of the Tax Court. The novelty of this study lies in the formulation of an integrated legal harmonization model that combines normative, administrative, institutional, and judicial aspects as the foundation for strengthening legal certainty, fiscal justice, and the effectiveness of Indonesia's tax law enforcement in addressing BEPS practices.
Keywords: *Legal Harmonization, Transfer Pricing, Double Taxation Avoidance Agreements (DTAAs), Base Erosion and Profit Shifting (BEPS), Legal Certainty, Tax Court.*

INTRODUCTION

The growth of cross-border transactions conducted by multinational enterprises has increased the complexity of international taxation, particularly in determining which jurisdiction has the right to tax profits generated from cross-border economic activities (Tran, 2020) . Within the structure of a multinational enterprise, transactions between related parties may include the sale of goods, the provision of services, financing, the use of intangible assets, or other financial transactions. These conditions make transfer pricing a key issue in international tax administration, as the prices set in intercompany transactions can influence the location of profit recognition and the distribution of the tax base across jurisdictions. The OECD's " " establishes the arm's-length principle as the primary international consensus for determining prices in cross-border transactions between related companies, with the aim of ensuring that reported profits reflect economic activities conducted within a jurisdiction while limiting the risk of double taxation for taxpayers (OECD, 2022; Triyono et al., 2024) .

This issue becomes increasingly complex in the context of Base Erosion and Profit Shifting (BEPS). Profit shifting and tax base erosion can occur when profits are artificially allocated to low-tax jurisdictions or when cross-border transaction structures are exploited to obtain tax benefits that are inconsistent with the economic substance of the transactions (Álvarez-Martínez et al., 2022; Bradbury et al., 2018) . The international response to these issues was realized through the OECD/G20 BEPS Project, which produced a series of actions to strengthen the consistency of international tax rules. In the context of transfer pricing, BEPS Actions 8–10 reinforce an economic substance-based approach to the application of the arm's length principle, while Action 13 introduces a documentation framework consisting of a master file, a local file, and a Country-by-Country Report to enhance transparency and the capacity of tax authorities to conduct risk assessments. The OECD emphasizes that this documentation is intended to help tax administrations identify transfer pricing and BEPS risks and determine areas requiring further examination (OECD, 2022) .

In subsequent developments, the issue of BEPS is not only related to how countries protect their tax bases but also how those taxing rights are exercised in a manner consistent with Double Taxation Avoidance Agreements (DTAs). DTAs are essentially designed to allocate taxing rights among countries and prevent double taxation of income with a cross-border dimension (Nessy & Rahayu, 2018; Putri & Adlina, 2018) . However, differing interpretations of the arm's length principle, beneficial ownership, permanent establishment, and anti-abuse provisions can lead to conflicts between domestic law and treaty provisions. The Multilateral Instrument (MLI) is one response to this issue, as it enables more coordinated amendments to various tax treaties to incorporate BEPS standards, including the prevention of treaty abuse and the strengthening of dispute resolution mechanisms (Permata, 2025; Zuchri, 2025) .

Thus, the issue of transfer pricing cannot be understood merely as a technical matter concerning the determination of transaction prices. Transfer pricing is a legal issue situated at the intersection of domestic tax law, DTAs, international standards, tax administrative authority, and dispute resolution mechanisms. This complexity demands consistency among the rules governing transactions, the methods used to assess the reasonableness of transactions, audit procedures, and dispute resolution mechanisms in the event of a disagreement between taxpayers and tax authorities. Without a coherent relationship among these various elements, the application of the arm's-length principle can lead to legal uncertainty and increase the risk of double taxation (Putrawan, 2018) .

Indonesia has strengthened its transfer pricing legal framework as part of its response to developments in international taxation. One significant development is the issuance of Regulation of the Minister of Finance of the Republic of Indonesia No. 172 of 2023 on the Application of the Arm's Length Principle in Transactions Involving Related Parties. This regulation replaces a number of previous regulations and is intended to align provisions regarding the application of the arm's length principle, transfer pricing documentation, the Mutual Agreement Procedure (MAP), and the Advance Pricing Agreement (APA). In fact, the preamble to PMK 172/2023 explicitly identifies fairness, legal certainty, and ease in exercising the right to " " as well as fulfilling tax obligations as key foundations for refining regulations on " .

Nevertheless, strengthening regulations does not in and of itself resolve the issue of harmonization in the practice of transfer pricing enforcement. The issue of legal certainty is not only related to the existence or absence of legal norms but also to fragmented interpretations, differences in audit methods, variations in standards of proof, and disparities in considerations during dispute resolution. In transfer pricing cases, these issues are significant because tax adjustments not only require a normative basis but must also be supported by testable economic analysis, the selection of appropriate methods, reliable comparable data, and procedures that provide taxpayers with adequate opportunity to defend their position. Thus, legal certainty in transfer pricing is both substantive and procedural in nature, not merely certainty regarding the existence of regulations.

This issue is also evident in the relationship between domestic audits and international dispute resolution mechanisms. In the international tax system, the Mutual Agreement Procedure (MAP) plays a crucial role when a country's actions result in taxation that does not comply with the provisions of a Double Taxation Agreement (DTA). The OECD, through BEPS Action 14, has established minimum standards to ensure that disputes related to the interpretation and application of DTAs can be resolved in a timely, effective, and efficient manner. Recent developments even indicate that MAP and APA are increasingly being positioned within the framework of tax certainty, rather than merely as dispute resolution mechanisms after a conflict has arisen. The OECD notes that in 2024, the global average resolution time for transfer pricing MAP cases still stood at approximately 30.89 months, indicating that the effectiveness of dispute resolution mechanisms remains a critical issue in international taxation (OECD, 2022) . In the

Indonesian context, this issue is even more critical because transfer pricing disputes can involve multiple layers of resolution, ranging from audits and objections, APAs and MAPs, to appeals before the Tax Court and potential reconsideration. Therefore, these two mechanisms should not be viewed as separate pathways but rather as part of a single transfer pricing dispute resolution architecture.

Given these circumstances, there is a significant research gap. Studies on transfer pricing and BEPS generally focus on the application of the arm's length principle, transfer pricing documentation, treaty abuse, or the effectiveness of MAP in isolation. Based on this research gap, this article proposes an integrated legal harmonization model for the enforcement of transfer pricing laws and tax treaties in Indonesia in response to BEPS. The model aims to strike a balance between two legal interests that are often pitted against each other in transfer pricing disputes: the protection of the country's tax base and the protection of taxpayers' rights. The state requires effective mechanisms to prevent the artificial shifting of profits and to ensure that profits economically generated in Indonesia are taxed proportionally. On the other hand, taxpayers require certainty regarding the legal basis for adjustments, consistency in the application of the arm's length principle, fair treatment, and protection from double taxation. Within this framework, the success of tax enforcement should not be measured solely by the amount of the tax adjustment imposed, but also by the adjustment's ability to stand up legally and economically, be consistent with double taxation treaties, and not result in double taxation.

Thus, this study aims to: first, analyze the alignment of Indonesia's transfer pricing legal framework with tax treaties and developments in international BEPS standards; second, to identify forms of normative, substantive, procedural, institutional, and interpretive disharmony in the enforcement and dispute resolution of transfer pr ; and third, to formulate a legal harmonization model that can strengthen legal certainty and fiscal justice in the handling of transfer pricing and DTAs in Indonesia. The main contribution of this research lies in the development of a harmonization model that views transfer pricing not merely as a matter of determining transaction prices, but as a legal and institutional system linking domestic regulations, tax treaties, BEPS standards, tax administration, dispute resolution mechanisms, and case law.

METHOD

Type and Design of Research

This study employs normative legal research aimed at analyzing the norms, principles, doctrines, and legal practices related to the enforcement of transfer pricing and Double Taxation Avoidance Agreements (DTAs) in the context of Base Erosion and Profit Shifting (BEPS). Normative legal research was chosen because the primary focus of the study is not the empirical behavior of taxpayers or tax authorities, but rather the coherence and harmonization of various legal norms governing transfer pricing, DTAs, dispute resolution mechanisms, and the authority of the institutions involved.

The research design is aimed at identifying gaps and potential disharmony between Indonesian domestic legal provisions, DTAs, international standards developed through the OECD/G20 BEPS Project, and their application in transfer pricing audits and dispute resolution. This analysis is then used to formulate a legal harmonization model that can strengthen legal certainty and fiscal justice.

Research Approach

The study employs several complementary approaches, namely the statutory approach, the conceptual approach, the historical approach, the case approach, and the comparative approach.

First, the statutory approach is used to identify and analyze legal provisions governing transfer pricing, tax treaties, tax audits, and the resolution of tax disputes, as well as legal instruments related to the implementation of BEPS in Indonesia. The analysis focuses on the relationships and consistency among provisions, including those between laws, implementing regulations, tax treaties, and relevant international instruments.

Second, the conceptual approach is used to establish an analytical foundation regarding the concepts of transfer pricing, the arm's length principle, legal certainty, fiscal justice, legal harmonization, BEPS, beneficial ownership, permanent establishment, APAs, and MAPs. This approach is necessary to assess whether the application of existing norms reflects the underlying legal principles.

Third, a historical approach is used to understand the evolution of transfer pricing regulations and tax treaties, including changes in international tax policy in response to the growth of cross-border transactions and BEPS. This approach helps explain the reasons behind regulatory changes as well as the direction of transfer pricing policy development in Indonesia.
Fourth, the case study approach is used to analyze Tax Court decisions and, where relevant, decisions at the appellate level related to transfer pricing disputes. The case analysis focuses on legal considerations, the application of the arm's length principle, the use of comparable data, transfer pricing methods, the burden of proof, and the consistency of the ratio decidendi. Through this approach, the study not only evaluates the law at the normative " " level but also examines how these norms are applied in dispute resolution.
Fifth, a comparative approach was used to compare the legal frameworks and enforcement practices regarding transfer pricing in Indonesia with those in Singapore, Malaysia, Japan, and Australia. The comparison covered transfer pricing regulations, documentation, audits, APAs, MAPs, objection mechanisms, dispute resolution, and the status of court rulings. This comparative study was used to identify the similarities, differences, strengths, and weaknesses of each system as a basis for developing a model relevant to Indonesia.

Legal Sources and Materials
The legal materials used consist of primary, secondary, and tertiary sources. Primary legal materials include Indonesian tax laws and regulations, particularly provisions regarding income tax and transfer pricing, Minister of Finance Regulation No. 172 of 2023, relevant Double Taxation Agreements (DTAs), provisions regarding the Multilateral Instrument (MLI), regulations on tax audits and dispute resolution, as well as decisions by the Tax Court and the Supreme Court related to transfer pricing. Minister of Finance Regulation No. 172 of 2023 serves as a key instrument in this research as it integrates provisions regarding the arm's length principle, transfer pricing documentation, Advance Pricing Agreements (APAs), and Mutual Agreement Procedures (MAPs). Secondary legal sources include the OECD Transfer Pricing Guidelines, documents from the OECD/G20 BEPS Project, books and scholarly articles on international tax law, transfer pricing, tax treaties, BEPS, legal certainty, tax justice, as well as literature discussing tax practices and dispute resolution in comparable countries. Tertiary legal materials are used as supporting materials to clarify the legal terms and concepts used in the research.

Legal Research Collection Techniques
Legal materials were collected through library research by identifying, cataloging, and classifying them based on their relevance to the research problem. The legal materials were then grouped into several main themes, namely: (1) transfer pricing and the arm's length principle; (2) tax treaties and BEPS; (3) transfer pricing audits and documentation; (4) APAs and MAPs; (5) dispute resolution and Tax Court rulings; and (6) harmonization practices in the countries under comparison. This classification was used to facilitate the analysis of the relationship between domestic and international norms and to identify points of disharmony that affect legal certainty.

Legal Analysis Techniques
Legal materials are analyzed qualitatively and juridically through the stages of interpretation, systematization, comparison, and evaluation. First, legal provisions are interpreted based on their normative and conceptual contexts. Second, these provisions are systematized to identify relationships, consistency, overlaps, or gaps between norms. Third, the results of the analysis of Indonesia's legal framework are compared with practices in the benchmark countries. Fourth, the results of the comparison are used to evaluate the strengths and weaknesses of Indonesia's legal framework.
The analysis then focuses on five dimensions of harmonization: normative, substantive, procedural, institutional, and information and jurisprudence. Normative harmonization focuses on the relationship between domestic law, tax treaties (P3B), the Multilateral Instrument (MLI), and OECD standards; substantive harmonization focuses on the consistency of analyses of transactions, functions, assets, risks, methods, and comparables; procedural harmonization focuses on the interconnection of audits, objections, Advance Pricing Agreements (APAs), Mutual Agreement Procedures (MAPs), and litigation;

institutional harmonization focuses on the capacity and independence of the institutions involved ; while information and jurisprudence harmonization covers the transparency of guidelines, data, statistics, and court rulings. The results of this comprehensive analysis are used to formulate an integrated model for the harmonization of transfer pricing laws and DTAs, with the aim of achieving a balance between the protection of a country's tax base, legal certainty, fairness for taxpayers, and the prevention of double taxation.

RESULTS AND DISCUSSION

The Legal Framework for Transfer Pricing and Double Taxation Agreements in Indonesia in Addressing BEPS

The growth of cross-border transactions has placed transfer pricing in a critical position within the international tax system, as the pricing of transactions between related parties can affect the allocation of profits and taxing rights among countries. In this context, the *arm's length* principle serves as the primary basis for determining whether the terms of a transaction between related parties reflect the conditions that would apply between independent parties. The OECD positions the arm's length principle as an international consensus that forms the basis for the application of transfer pricing, while the BEPS Project reinforces this approach by emphasizing alignment between profits and the actual economic activities carried out by multinational enterprise groups (OECD, 2022) .

Within the Indonesian legal system, transfer pricing regulations have evolved in line with the need to protect the domestic tax base while providing certainty to taxpayers when conducting transactions with related parties. This framework does not stand alone but interacts with the provisions of tax treaties (P3B) that govern the allocation of taxing rights between countries. Therefore, Indonesia's transfer pricing legal framework can be understood as a system comprising domestic law, international tax treaties, and international tax standards. The relationship among these three elements is crucial because transfer pricing adjustments made under domestic law must still take into account the limits on taxing rights agreed upon in tax treaties.

a. TRANSFER Pricing Regulations and the Arm's Length Principle

Transfer pricing regulations in Indonesia are fundamentally based on the principles of arm's-length and business norms. These principles require that transactions influenced by a special relationship be evaluated based on conditions comparable to those of transactions conducted by independent parties. Thus, the existence of a special relationship does not in itself indicate a tax violation. Legal issues arise when the agreed-upon terms or prices of a transaction differ from the conditions that would have prevailed had the transaction been conducted by independent parties (Saragi, 2024) .

The strengthening of these regulations is evident in Minister of Finance Regulation No. 172 of 2023 concerning the Application of the Arm's Length Principle in Transactions Influenced by Special Relationships. This regulation provides a more comprehensive framework regarding the application of the arm's length and business norms principles, including the identification of transactions influenced by special relationships, the application of the arm's length principle, transfer pricing documentation, as well as the APA and MAP mechanisms. Thus, PMK 172/2023 serves not only as an instrument for making corrections but also as an instrument for establishing certainty regarding how transactions involving special relationships should be assessed.

From a substantive perspective, the application of the arm's-length principle requires an accurate delineation of the actual transaction, an analysis of functions, assets, and risks (functional analysis), the selection of the most appropriate transfer pricing method, and the use of adequate comparable data. This approach aligns with developments in the OECD Transfer Pricing Guidelines, which emphasize that transfer- -pricing analysis must consider the characteristics of the transaction and the economic substance of the commercial and financial relationships between related parties (OECD, 2022) .

In practice, transfer pricing issues become more complex because determining an arm's-length price does not always yield a single, absolute figure. The results of the analysis depend heavily on the characteristics of the transaction, the functions performed by each party, the assets used, the risks borne, market conditions, and the quality of available comparables. Therefore, the tax authority's power to make adjustments must be balanced by an obligation to provide a verifiable basis for the analysis. The findings of this study indicate that transfer pricing audits should not stop at identifying the existence of a special relationship or differences in profit margins, but must also explain why a transaction is considered non-arm's length, which method is most appropriate to use, how comparables were selected, and why the taxpayer's analysis results can be accepted or rejected.

This indicates that the application of the arm's length principle has two dimensions. First, the substantive dimension, which ensures that the profits allocated to an entity reflect the functions, assets, and risks economically associated with its activities. Second, the procedural dimension, which ensures that the process of determining fair prices is conducted using transparent and verifiable methods and evidence. A balance between these two dimensions is a critical prerequisite to ensure that the application of transfer pricing does not become a corrective authority that is difficult for taxpayers to predict.

b. Transfer Pricing Documentation as an Instrument of Legal Certainty

In addition to regulations regarding the substance of transactions, documentation plays a crucial role in the transfer pricing system. Documentation enables taxpayers to explain the basis for setting transaction prices and provides information to tax authorities for conducting risk assessments. Under the BEPS Action 13 framework, the OECD introduced a documentation approach comprising the master file, local file, and Country-by-Country Report as tools to enhance transparency and assist tax administrations in conducting transfer pricing risk assessments (Sari et al., 2020; M. R. U. D. Tambunan, 2022) .

In the Indonesian context, these documentation requirements were subsequently integrated into the national transfer pricing legal framework. Documentation should not be viewed merely as an administrative obligation for taxpayers but also as an instrument for providing evidence and preventing disputes. The clearer the information regarding the characteristics of the transaction, the structure of the business group, the functions and risks of each party, and the basis for selecting the method, the greater the likelihood of a common understanding between the taxpayer and the tax authorities.

However, documentation alone does not guarantee that a taxpayer's position will be accepted. Tax authorities retain the authority to examine the substance of transactions and make corrections if there are sufficient grounds to do so. Therefore, the role of documentation should be situated within a balanced relationship among transparency, risk assessment, compliance, and taxpayer protection. Comparative findings in the study show that countries such as Singapore, Malaysia, Japan, and Australia not only use documentation as a formal instrument but also link it to risk mapping and transfer pricing audits. Thus, the challenge for Indonesia is not merely to expand documentation requirements but to ensure that the resulting information can be consistently utilized in the audit process. This is crucial because the quality of transfer pricing adjustments ultimately depends heavily on the quality of the information and comparables available to both parties.

c. DTAAs as a Framework for Allocating Taxing Rights

The national transfer pricing legal framework cannot be separated from the existence of Double Taxation Avoidance Agreements (DTAs). DTAs serve to allocate taxing rights between the source country and the country of residence and provide mechanisms to avoid or reduce double taxation. In transactions involving multinational enterprises, the relationship between transfer pricing and DTAs becomes particularly important because adjustments made by one country can affect taxation in another. In this context, the application of *the arm's length principle* must be interpreted in conjunction with the relevant provisions of the DTA. Issues may arise when the tax authority of one country makes an adjustment to the profits of a company with a special relationship, while the partner country does not make a corresponding adjustment. Such a situation can result in economic double taxation that is, the taxation of the same economic substance or profit by two jurisdictions.

This issue demonstrates that transfer pricing and DTAs have an interdependent relationship. Domestic law provides the basis for tax authorities to determine and adjust income, while DTAs establish international limits and frameworks regarding the allocation of taxing rights. Therefore, the application of domestic law that fails to consider DTAs can lead to both normative and practical conflicts.

In addition to the arm's length principle, other relevant aspects include beneficial ownership and permanent establishment. Beneficial ownership relates to determining the party that is actually entitled to the benefits of specific income, while permanent establishment relates to the existence of a tax nexus for a foreign company in the source country. Differences in the interpretation of these two concepts can affect the determination of taxing rights and have the potential to create treaty disputes. Thus, transfer pricing harmonization cannot be directed solely toward the alignment of domestic regulations but must also consider how these norms interact with tax treaties. This has become increasingly relevant following the BEPS initiative, which has encouraged countries to strengthen anti-abuse provisions in treaties and dispute resolution mechanisms.

d. BEPS, the MLI, and Developments in the International Legal Framework

The BEPS Project has brought significant changes to the architecture of international taxation. Regarding transfer pricing, BEPS Actions 8–10 strengthen the application of *the arm's length principle* by placing greater emphasis on the economic substance of transactions, while Action 13 enhances transparency through transfer pricing documentation. Meanwhile, Action 14 is aimed at improving the effectiveness of dispute resolution mechanisms through the Mutual Agreement Procedure (MAP).

These developments were further reinforced by the Multilateral Instrument (MLI), which enables more coordinated amendments to a number of tax treaties without the need for bilateral renegotiations of all existing agreements. Among other things, the MLI strengthens provisions to prevent the abuse of tax treaties and improves dispute resolution mechanisms. Thus, BEPS developments indicate that international tax law is increasingly moving toward cross-jurisdictional coordination, rather than merely strengthening national tax laws in isolation.

For Indonesia, this development implies that national transfer pricing laws must continue to be viewed within the context of evolving international standards. Harmonization does not mean that all OECD provisions must be applied identically to national law, but rather ensures that domestic law functions coherently with treaty obligations and international standards that Indonesia has adopted.

PMK 172/2023 points in that direction by integrating several transfer pricing instruments into a single regulatory framework. However, this study finds that normative completeness is not yet fully synonymous with harmonization in implementation. There are still issues regarding the relationship between regulations, audit methods, evidence, dispute resolution, and the interpretation of rulings. In other words, the main issue lies not merely in *the absence of regulation*, but in the consistency of implementation.

e. Summary: A Comprehensive but Not Yet Fully Integrated Legal Framework

Based on the above discussion, it can be argued that Indonesia already has a relatively comprehensive legal framework for transfer pricing. This framework encompasses the arm's length principle, transfer pricing documentation, tax treaties (P3B), Advance Pricing Agreements (APA), Mutual Agreement Procedures (MAP), and various instruments developed under the BEPS framework. Thus, the challenges faced by Indonesia cannot be accurately understood as merely a lack of regulation.

The more fundamental issue is how these various instruments function as a single legal system. At the normative level, there is a need to ensure consistency between domestic law, DTAs, the Multilateral Instrument (MLI), and international standards. At the substantive level, consistency is required in the determination of transactions, the analysis of functions, assets, and risks, the selection of methods, and the choice of comparables. At the procedural level, audits, objections, APAs, MAPs, and litigation processes must be viewed as part of a single resolution process. Meanwhile, institutional capacity and the availability of legal information also determine the consistency of the application of norms.

These findings demonstrate that legal certainty in transfer pricing is the result of the interconnection of various elements, not merely the result of a large number of regulations. Comparative studies in this research show that stronger legal certainty is built through a combination of clear norms, administrative guidelines, documentation, risk-based audits, dispute prevention mechanisms, dispute resolution, and consistency in rulings.

Therefore, Indonesia's legal framework can be said to have undergone normative strengthening but still requires integrative implementation. These findings form the basis for further analysis of forms of disharmony in the enforcement of transfer pricing and tax treaties, particularly in audits, evidence presentation, legal interpretation, and dispute resolution. This analysis is crucial because, without implementation-level harmonization, regulatory strengthening may actually result in more legal instruments without proportionally increasing predictability and legal certainty.

Disharmony in the Enforcement of Transfer Pricing and Double Taxation Agreements and Its Impact on Legal Certainty

The research findings indicate that the primary issue in the enforcement of transfer pricing and DTAs in Indonesia does not lie solely in regulatory limitations, but in the disharmony between legal norms, the application of transfer pricing methods, audit and evidentiary processes, and dispute resolution mechanisms. These findings indicate a gap between "law in the books" and "law in action" . Normatively, Indonesia already possesses a relatively comprehensive legal framework, but its application can still lead to differing interpretations and assessment standards. This situation has implications for legal certainty because taxpayers cannot always predict how a transaction will be assessed by tax authorities or the courts. This finding can be explained through the concept of legal certainty, which identifies the clarity of norms, consistency in application, predictability, and protection against arbitrary government actions as essential elements of a legal system. In the context of international taxation, legal certainty becomes increasingly important because the same transaction may involve two or more jurisdictions with different legal systems and fiscal interests. Thus, legal certainty in transfer pricing does not depend solely on the existence of clear norms, but also on the consistency of their interpretation and application (Saragi, 2024) .

This finding aligns with the OECD's view that uncertainty in transfer pricing can arise from differing interpretations of facts, methods, and the application of the arm's-length principle, making mechanisms such as APAs and MAPs necessary to enhance predictability and prevent protracted disputes (OECD, 2022) . However, this study expands on that perspective by demonstrating that issues of legal certainty in Indonesia do not only arise in relations among tax authorities but also in the relationships between tax audits, appeals, courts, and international dispute resolution mechanisms.

a. Normative and Interpretive Disharmony

The study's findings reveal potential disharmony in the relationship between domestic law, tax treaties, and international tax standards. Domestic law grants tax authorities the authority to adjust transactions influenced by a special relationship, while tax treaties limit and regulate the allocation of taxing rights among countries. At the same time, the OECD Transfer Pricing Guidelines provide an interpretive framework for the application of the arm's-length principle. These three sources do not always operate in separate spheres, so differences in interpretation can lead to uncertainty in determining the legal basis and parameters for adjustments.

Theoretically, this issue can be understood through the theory of legal harmonization, which views harmonization not as the standardization of all legal provisions, but as a process of creating alignment and coherence among different norms. In the context of international taxation, harmonization is necessary because cross-border transactions lie at the intersection of the interests of the source country, the country of residence, and the taxpayer. If these three interests are not linked through consistent parameters, conflicts of norms or conflicts of jurisdiction may arise (Biondi, 2017) .

This finding supports the research by Jakfar & Nuraini (2025) , which explains that international taxation faces a fundamental problem in the form of a conflict between a country's right to tax and the need for coordination among countries. In the context of transfer pricing, this conflict becomes more complex because the determination of a company's profits can affect the tax base in more than one country. This study reinforces this argument by demonstrating that such conflicts are not only inter-state in nature but can also arise within domestic systems when international norms are applied to audits and dispute resolution. Interpretation issues are also related to the application of the arm's length principle. The OECD's " emphasizes that this principle must be applied through an analysis of actual transactions, economic characteristics, functions, assets, risks, and comparable conditions. This means that the arm's length principle cannot be applied based solely on a single indicator, such as the size of the profit margin or the existence of a special relationship.

This study found that using a special relationship as a starting point for examination can be problematic if it is not followed by evidence regarding the unreasonableness of the transaction conditions. A special relationship provides a basis for conducting a test, but does not automatically prove that the transfer price has been set unreasonably. This finding reinforces the OECD's approach, which places the analysis of actual transactions and economic conditions at the core of applying the arm's length principle. Thus, this study demonstrates that normative harmonization must be followed by interpretive harmonization. Clarity regarding the relationship between domestic law, tax treaties, the Multilateral Instrument (MLI), and the OECD Guidelines must be accompanied by interpretive guidelines that can reduce differences in understanding among taxpayers, auditors, appeal officials, and tax judges.

b. Disharmony in Audits, Methods, and Evidence

Further research findings indicate that one of the primary sources of transfer pricing disputes is the discrepancy in determining methods, comparables, and standards of proof. During an audit, tax authorities may make adjustments when they find that the price or margin of a transaction does not reflect the principle of arm's length. However, the validity of such adjustments heavily depends on the tax authorities' ability to explain the rationale for selecting the method, the quality of the comparables, and the relationship between the transaction's characteristics and the adjustment results. These findings can be explained through the "substance over form" principle and the concept of "accurate delineation of the actual transaction." From the perspective of " as outlined by , transfer pricing analysis must begin with an accurate understanding of the actual transaction, including the commercial and financial relationships between the parties and the economic characteristics of the transaction. An analysis of functions, assets, and risks is then used to determine how profits should be allocated.

The research findings show that an overly formalistic approach has the potential to result in adjustments that do not fully reflect the economic substance of the transaction. For example, the existence of a special relationship or differences in profit margins is not sufficient to determine that a transaction price is unreasonable without further analysis of functions, assets, risks, market conditions, and relevant comparables. These findings align with the research on, which demonstrates that the international tax system faces significant challenges in allocating the profits of multinational enterprise groups because economic activities and value creation are spread across jurisdictions. In the context of transfer pricing, these difficulties highlight the importance of an approach capable of linking economic outcomes to the actual activities and risks undertaken by each entity.

Regarding methodology, this study found that differences in the use of the TNMM, CUP, or other methods do not in and of themselves indicate error on the part of either party. The legal issue lies instead in the justification for the method selection and the quality of its application. This is consistent with the OECD's, which emphasizes that method selection must consider transaction characteristics, availability of information, comparability, and data reliability.

This finding also reinforces previous research showing that transfer pricing disputes are often related to differences in the assessment of comparables and the selection of methods. In the Indonesian context, this study adds a legal dimension by demonstrating that these differences are not merely technical economic issues but also matters of legal proof. When the basis for selecting comparables and methods is not adequately explained, the adjustment will be more difficult to defend in a dispute. Therefore, the research results highlight the need for integration between economic analysis and legal standards of proof. A robust transfer pricing adjustment must be able to answer three questions: Is the method used appropriate? Are the comparables used justifiable? And does the result of the adjustment have a logical connection to the facts of the transaction? Thus, transfer pricing audits must meet both substantive and procedural standards.

c. Disharmony in Dispute Resolution and Tax Court Rulings

Further disharmony is found at the dispute resolution stage. Differences in interpretation between taxpayers and tax authorities can persist from the audit through the objection process, to the Tax Court, and in certain cases, to the appellate review stage. For cross-border transactions, disputes may also involve the Mutual Agreement Procedure (MAP) when an adjustment made by one country has the potential to result in double taxation.

Theoretically, this issue relates to the concepts of access to justice and *due process of law*. Legal certainty requires not only clear substantive rules but also the availability of fair procedures to challenge administrative decisions. In the context of taxation, taxpayers must have an effective opportunity to present evidence, explain transactions, and challenge the basis for corrections made by tax authorities (Suharsono et al., 2024) . Research findings indicate that domestic dispute resolution mechanisms and

MAP should still be viewed as part of a single dispute resolution architecture. Through BEPS Action 14, the OECD emphasizes the importance of effective dispute resolution mechanisms, including access to MAP and the resolution of cases within a reasonable timeframe. This study expands on that approach by positioning MAP not as a standalone mechanism, but as part of a dispute resolution chain that must be coordinated with audits, appeals, and domestic judicial processes.

At the Tax Court level, the study found that consistency in legal reasoning is a key factor in creating predictability. This does not mean that all transfer pricing disputes must result in identical rulings. Differences in rulings may be justified if there are differences in facts, transactions, evidence, or legal issues. However, if cases share comparable material characteristics, the legal parameters applied should be explained consistently. This finding can be linked to the concepts of judicial consistency and the value of precedent. Although the Indonesian legal system does not strictly apply stare decisis as in common law systems, consistency in legal reasoning remains of great importance in creating legal predictability. For transfer pricing disputes that have technical and recurring characteristics, the publication and classification of rulings are essential so that taxpayers, tax authorities, and judges can understand how similar issues have been previously adjudicated. Thus, this study demonstrates that legal certainty is determined not only by the quality of regulations but also by the consistency of institutions in interpreting and applying those regulations. These findings expand the concept of legal certainty in taxation from merely *the* "certainty of rules" to the "certainty of application."

d. The Impact of Disharmony on Legal Certainty and Fiscal Justice

Normative, methodological, procedural, and judicial disharmony ultimately result in two main consequences: a decline in legal certainty and the emergence of the risk of fiscal injustice. For taxpayers, uncertainty can increase compliance costs, the risk of tax assessments, and litigation costs. For the state, inconsistent tax assessments can increase the risk of court rulings overturning such assessments and prolong the dispute resolution process. These findings can be explained through the theory of legal certainty, which identifies predictability as one of the key characteristics of good law. Fuller (1969), for example, emphasizes the importance of consistency, clarity, and regularity in the legal system so that individuals can adjust their behavior to the rules. In the context of transfer pricing, taxpayers need to know the parameters the government uses in evaluating transactions so they can formulate pricing policies and prepare documentation appropriately from the outset.

The research findings are also consistent with studies by , which highlight that the increasing complexity of international taxation can heighten uncertainty for taxpayers and amplify the potential for conflicts between tax authorities. However, this study indicates that such complexity can be exacerbated in the absence of coordination among tax administrations, domestic dispute resolution mechanisms, tax treaties (P3B), and the Mutual Agreement Procedure (MAP).

From a fiscal justice perspective, protecting a country's tax base remains a critical objective. Transfer pricing systems must be able to prevent multinational enterprises from artificially shifting profits to low-tax jurisdictions. However, tax base protection must not be achieved through adjustments that lack adequate analytical and procedural foundations. In this context, this study reinforces the BEPS Project's notion that the primary goal of international tax reform is not merely to increase government revenue, but to ensure that profits are taxed where economic activities and value creation take place. Thus, tax justice and legal certainty are not two conflicting goals, but must be built simultaneously.

e. Synthesis of Findings and Implications for Harmonization

Based on the overall analysis, this study finds that disharmony in the enforcement of transfer pricing and tax treaties occurs at several interrelated levels. First, normative disharmony occurs when the relationship between domestic law, tax treaties, the Multilateral Instrument (MLI), and international standards is not always interpreted uniformly. Second, substantive disharmony arises from differences in transaction analysis, method selection, and the use of comparables. Third, procedural disharmony is evident in the suboptimal coordination between audits, objections, APAs, MAPs, and litigation. Fourth, institutional disharmony relates to differences in the capacity and perspectives of the institutions involved. Fifth, disharmony regarding information and jurisprudence relates to limited access to data, operational guidelines, and the consistency of rulings.

These findings align with the literature that views transfer pricing as an issue that is not only technical and economic in nature but also institutional and legal. The OECD (2022) emphasizes the importance of consistency in applying the arm's length principle, while the OECD (2015), through BEPS Actions 13 and 14, highlights the importance of information transparency and dispute resolution mechanisms. This study integrates these two perspectives by demonstrating that legal certainty in transfer pricing can only be achieved if all stages of law enforcement operate within a coherent framework. Thus, this study's contribution to previous research lies in the development of a harmonization perspective that goes beyond mere alignment of norms. Harmonization is understood as the integration of norms, substance, procedures, institutions, as well as information and case law. This approach allows for the protection of a country's tax base and the protection of taxpayers to be placed within the same framework.

These findings also serve as the basis for further discussion regarding practices in comparable countries. A comparison with Singapore, Malaysia, Japan, and Australia is necessary to identify mechanisms capable of linking risk-based compliance, audits, APAs, MAPs, dispute resolution, and consistency in administration and case law. The results of this comparison will then be used as the basis for formulating a model for the harmonization of transfer pricing laws and double taxation treaties that is better suited to the needs of the Indonesian tax system.

Comparative Lessons on Transfer Pricing Enforcement and Dispute Resolution

a. Singapore: Integration of Risk-Based Compliance and Dispute Prevention

Singapore demonstrates a robust approach to linking compliance, documentation, audits, and dispute resolution. The Inland Revenue Authority of Singapore (IRAS) uses transfer pricing documentation not only as evidence of compliance but also as a basis for understanding a taxpayer's risk profile. Transfer pricing audits are aimed at assessing whether a taxpayer's transfer pricing policies and documentation align with the arm's-length principle. In this system, the quality of documentation is directly linked to risk assessment and audit actions (Elumilade et al., 2022) . This approach reflects a shift from "compliance after the fact" toward risk-based compliance. Tax authorities do not merely wait for violations to occur and then take corrective action; rather, they proactively identify transactions and taxpayers with higher transfer pricing risks. This approach is theoretically linked to responsive regulation—the idea that the intensity of regulatory intervention should be tailored to the level of risk and the behavior of the regulated parties.

In the context of transfer pricing, a risk-based approach is relevant because not all related-party transactions carry the same level of risk. Routine transactions with robust documentation should not be subject to the same level of scrutiny as complex transactions, such as business restructurings, intra-group financing, intangible asset transactions, or transactions involving high-risk jurisdictions. This finding aligns with the developments under BEPS Action 13, which positions documentation as a tool for transparency and risk assessment, rather than merely an administrative obligation (OECD, 2022) . However, this study indicates that the benefits of documentation will be greater if it is integrated into the audit system. In other words, good documentation should result in administrative consequences in the form of reduced audit risk, rather than merely serving as additional documents that taxpayers must submit.

From the perspective of legal certainty, Singapore's practices demonstrate that predictability can be fostered through the interplay between the quality of compliance and the authorities' response. Taxpayers are incentivized to improve the quality of their documentation, while authorities can focus their resources on transactions posing higher risks. This approach can reduce unnecessary audits while enhancing the effectiveness of oversight. However, these practices cannot be mechanically adopted by Indonesia. The use of a risk-based approach must remain within the framework of the principles of legality, transparency, and the taxpayer's right to know the basis for administrative actions. This is important because Indonesia's system has a different legal structure and relies more heavily on written regulations. Thus, the most relevant lesson from Singapore is not its legal system as a whole, but rather the mechanisms of risk-based compliance and the integration of documentation with audits.

b. Malaysia: More Operational Audit Guidelines

Malaysia offers valuable insights, particularly regarding the operational aspects of transfer pricing audits. Malaysia uses the Transfer Pricing Tax Audit Framework as a specific guideline for auditors. The existence of this framework provides a clearer structure regarding the audit process, the information required, the aspects that need to be examined, and the approach to transactions influenced by related-party relationships. Malaysia updates this audit framework periodically, demonstrating an effort to align audit practices with evolving transactions and international standards (Dahlan, 2020; Wahyudi et al., 2021) . From the perspective of legal certainty theory, administrative guidelines serve an important function by translating general norms into operational standards. Legal certainty requires not only substantive rules but also the predictability of administration. In their study on tax certainty, the OECD and IMF emphasize that tax certainty requires clear legislation, consistent administration, dispute prevention, and effective dispute resolution mechanisms.

Comparative findings from Malaysia reinforce this argument. Comprehensive regulations are insufficient if auditors lack clear guidelines on how those norms are applied. Therefore, Indonesia can learn from this by developing a transfer pricing audit manual or audit guidelines that are more operational and transparent. Thus, the lesson from Malaysia lies primarily in the standardization of the audit process, not in replicating its entire tax mechanism.

c. Japan: Voluntary Compliance, Consultation, and Administrative Consistency

Japan offers a different model. Legal certainty in the Japanese system is largely built through a combination of detailed regulations, structured administration, administrative guidelines, and consistency in their application. Court decisions do not formally carry the force of precedent as in common law systems, but Supreme Court rulings exert a strong practical influence on lower courts and legal practice (Sari et al., 2020) . In the context of transfer pricing, this characteristic fosters an environment that emphasizes voluntary compliance. Documentation and communication between taxpayers and the tax administration are viewed not merely as tools for audits following a dispute but as means to build mutual understanding before a dispute arises. This study found that Japan's strength lies in the consistency between administrative guidelines, audit practices, and court rulings, thereby giving documentation a preventive function.

This approach can be explained through the concept of cooperative compliance, which frames the relationship between taxpayers and tax authorities within a framework of transparency, openness, and trust-based compliance. In transfer pricing, this approach is highly relevant because the transactions of multinational enterprises are often complex and recurring. Taxpayers possess information regarding the group's business models and strategies that is not always available to tax authorities, while the authorities have the authority and data necessary to assess risk. Consultation mechanisms and cooperative compliance can be used to discuss business models, value chains, transfer pricing methods, comparables, restructuring, financing, and intangible assets before they become the subject of a dispute. If a taxpayer's internal control system can be tested and material positions are disclosed transparently, the intensity of audits can be adjusted according to the level of risk.

This approach offers an important lesson for Indonesia, as transfer pricing is an area characterized by a relatively high degree of uncertainty. However, cooperative compliance must not devolve into an informal relationship that undermines the principle of legality. Any agreement between the authorities and taxpayers must still have a clear legal basis, be documentable, and not diminish the taxpayer's right to fair treatment. Thus, the lesson from Japan is the importance of shifting the focus from dispute resolution to dispute prevention. Documentation, consultation, APAs, and administrative communication should be utilized from the outset so that differences in interpretation can be resolved before they escalate into tax assessments and litigation.

d. Australia: Risk Indicators, Justified Trust, and the Rule of Law

Australia offers more robust guidance on the integration of risk management, documentation, and administrative oversight. The Australian Taxation Office (ATO) uses Practical Compliance Guidelines that provide risk indicators for various related-party transactions, including intra-group loans, business restructurings, and intangible asset transactions. Documentation is also used as the basis for risk assessment, so the quality of documentation can influence the level of risk assigned to taxpayers (Killaly, 2017) . This approach demonstrates that transfer pricing enforcement can be designed as a risk management system, rather than merely a corrective mechanism. Authorities can identify high-risk areas in advance, while taxpayers receive information regarding the characteristics of transactions deemed risky. This enhances predictability and allows administrative resources to be allocated more proportionally. The concept of "justified trust" also highlights the importance of the relationship between the quality of taxpayers' compliance systems and the level of administrative intervention. If the administration has sufficient grounds to trust that taxpayers have fulfilled their tax obligations , the intensity of intervention can be reduced. Conversely, transactions exhibiting high-risk indicators may be subject to more intensive scrutiny.

At the same time, Australia offers insights into the relationship between the rule of law and tax administration. Research shows that the principle of the rule of law requires laws that are clear, predictable, and easily accessible, as well as supported by fair and efficient dispute resolution mechanisms. The actions of tax authorities can still be challenged through administrative or judicial mechanisms. This is highly relevant to Indonesia's challenges. A risk-based approach should not be interpreted as an unlimited expansion of tax authority discretion. Rather, risk-based compliance must be accompanied by parameters that are known and verifiable. Thus, the Australian approach demonstrates that administrative effectiveness and legal certainty can coexist when administrative discretion is constrained by indicators, guidelines, documentation, and review mechanisms.

e. Comparative Synthesis and Its Relevance to Indonesia

The results of the comparison show that all four countries share similarities in the application of the arm's-length principle and BEPS standards, but differ in how they operationalize them. These differences demonstrate that legal certainty is not determined solely by a country's legal tradition, but by the system's ability to link regulations with administrative practices and dispute resolution.

In summary, the lessons learned can be summarized as follows:

Country	Key Practices	Value for Legal Certainty	Relevance for Indonesia
Singapore	*Risk-based compliance*	More targeted and predictive audits	Integration of documentation with risk assessment
Malaysia	Transfer pricing audit guidelines	Standardization of audit processes	More operational audit guidelines
Japan	Voluntary/cooperative compliance	Dispute Prevention and Administrative Consistency	Strengthening consultations and APAs
Australia	Risk indicators, *justified trust*, PCG	Risk Transparency and Proportionality of Interventions	Risk-based compliance systems and risk indicators
Indonesia	Relatively comprehensive regulations	The normative foundation is already in place	Implementation and integration need to be strengthened

This comparison shows that Indonesia is not actually lagging behind in terms of normative consolidation. PMK 172/2023 has integrated the principles of arm's length and business norms, documentation, APAs, and MAPs into a single administrative framework. The more prominent issues are the consistency of audits, the quality of economic analysis, and the use of comparable data. These findings are significant because they indicate that the solution for Indonesia does not lie in a complete overhaul of the existing legal system. Rather, reforms should focus on strengthening the implementation of the existing normative foundation. This approach aligns with the theory of legal harmonization, which emphasizes aligning relationships between norms and institutions without eliminating the distinct character of the national legal system. In this context, there are five key lessons that Indonesia can adapt.

First, normative harmonization. The relationships between the Income Tax Law, Government Regulation No. 55/2022, Minister of Finance Regulation No. 172/2023, double taxation treaties (P3B), the Multilateral Instrument (MLI), and the OECD Guidelines need to be clarified more systematically to prevent differing interpretations.
Second, substantive harmonization. Standards for transaction determination, function-asset-risk analysis, method selection, comparables, and adjustments need to be standardized so that adjustments have a consistent economic and legal basis.
Third, procedural harmonization. Audits, objections, APAs, MAPs, appeals, and reviews need to be integrated into a single dispute resolution framework. This study found that domestic mechanisms and MAPs serve different functions but must be able to operate in a coordinated manner.
Fourth, institutional harmonization. The expertise of auditors, MAP officials, objection reviewers, and tax judges needs to be strengthened so that all actors apply relatively consistent transfer pricing parameters.
Fifth, harmonization of information and case law. Indonesia needs to strengthen the publication of guidelines, APA and MAP statistics, and a searchable database of rulings based on transaction type, transfer pricing method, tax treaty provisions, and the legal principles applied. This approach will enhance the consistency of interpretation without requiring Indonesia to adopt a common law system.

f. Position of the Research Findings Relative to Previous Research

The comparative findings of this study both reinforce and expand upon previous research. Ramdhani et al. (2021) , for example, identify human resource capacity, budget, and information technology as factors influencing the effectiveness of dispute resolution through MAP. These findings support the results of this study that harmonization cannot be achieved solely through changes in norms but requires institutional capacity and information support. Meanwhile, Chaisse & Mosquera's (2023) study frames international taxation as a legal regime governing the allocation of taxing rights among countries through treaties and the principle of fiscal justice. This perspective is expanded upon by the present study, which demonstrates that the allocation of taxing rights is not sufficiently guaranteed by double taxation treaties alone but must be supported by consistent domestic administration and dispute resolution mechanisms. , and M. Tambunan's (2021) study on transfer pricing settlements in Indonesia indicates that the rise in disputes is linked to differing interpretations by tax auditors and inconsistencies among tax judges. These findings align directly with the results of this study regarding the existence of interpretive variations and the need for standardization. However, this study expands upon those findings by incorporating a comparative dimension and identifying practices in Singapore, Malaysia, Japan, and Australia that can be used to establish dispute prevention mechanisms and standardize audits.
Thus, the primary contribution of this comparative study is not to assert that any one of the countries under comparison should be adopted as a model in its entirety. Rather, its contribution lies in identifying elements compatible with the needs of Indonesia's legal system: *risk-based compliance* from Singapore and Australia, operational audit guidelines from Malaysia, and consultation and voluntary compliance from Japan. These four elements can be integrated into Indonesia's legal framework without compromising the principle of legality or the country's civil law character. Therefore, the comparative analysis leads to one key conclusion: Indonesia does not require legal system unification, but rather the integration of its transfer pricing enforcement system. Such integration must link domestic and international norms through risk-based audits, documentation, dispute prevention, APAs and MAPs, institutional strengthening, and consistency in the of information and case law. This conclusion serves as the basis for formulating the harmonization model discussed in the following subsection.

A Model for Harmonizing Transfer Pricing Laws and Double Taxation Agreements to Enhance Legal Certainty and Fiscal Justice

The findings in the previous section indicate that issues regarding the enforcement of transfer pricing laws and tax treaties in Indonesia are not primarily caused by a lack of regulations, but rather by the suboptimal coordination among legal norms, the application of the arm's-length principle, audits, evidence, dispute resolution mechanisms, institutional capacity, and information and case law. Comparative studies also show that other countries have developed more integrated mechanisms through risk-based compliance, audit guidelines, consultations, APAs, MAPs, and the use of documentation as a dispute prevention tool. Based on these findings, this study formulates a harmonization model that links domestic and international law with administrative and judicial practices within a coherent framework.

The proposed model is not intended to unify Indonesian law with international standards. Harmonization is understood as a process of functional alignment and the establishment of coherence among legal systems while maintaining the character and sovereignty of national law. This approach aligns with Ralf Michaels' theory of legal harmonization, which identifies *compatibility*, *coherence*, and *pluralism* as key characteristics of harmonization in an increasingly transnational legal environment. In the context of transfer pricing, national law, tax treaties, OECD standards, administrative practices, and court rulings are part of a legal plurality that must be managed coherently, rather than pitted against one another. Based on all findings, this study formulates the following harmonization model:

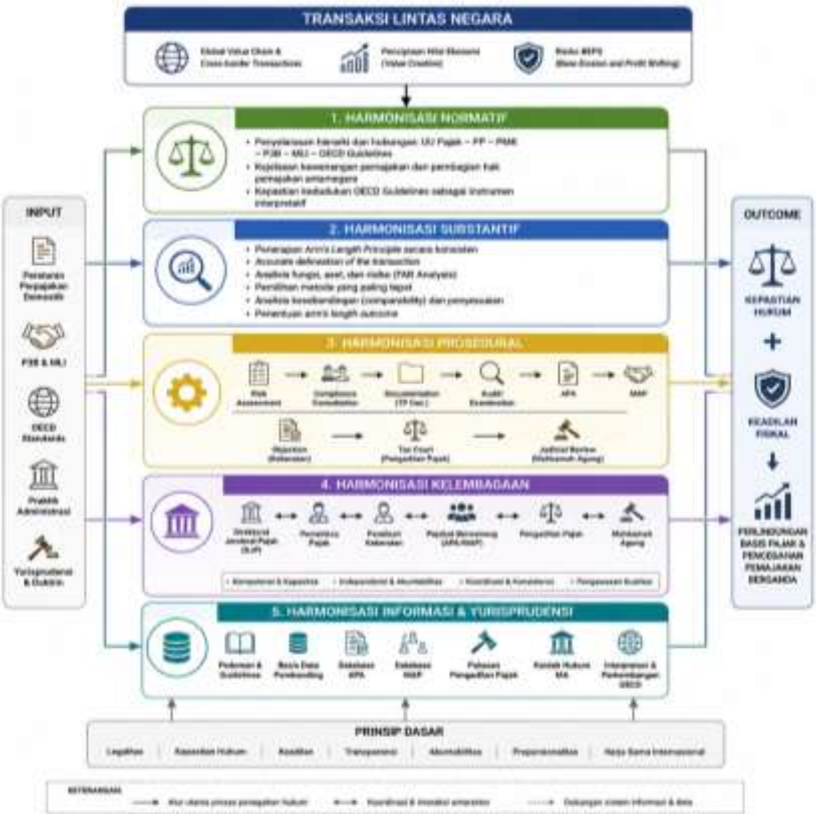

Figure 1. Model of Harmonization in the Enforcement of Transfer Pricing Laws and Double Taxation Agreements

Figure 1 illustrates the Harmonization Model for the Enforcement of Transfer Pricing Law and Double Taxation Agreements as an integrated process, beginning with cross-border transactions and culminating in the achievement of legal certainty and fiscal justice. This model demonstrates that transfer pricing enforcement cannot rely solely on a single regulatory aspect but requires interconnectivity among the normative, substantive, procedural, institutional, and information and jurisprudence dimensions. These five dimensions form a mutually supportive framework to ensure that the application of the arm's length principle is carried out consistently from the transaction identification stage through to dispute resolution.

In the initial stage, normative harmonization serves as the foundation for the entire process by aligning domestic law, tax treaties (P3B), the Multilateral Instrument (MLI), and the OECD Guidelines. Subsequently, substantive harmonization ensures that transactions are assessed based on accurate delineation, function-asset-risk analysis, method selection, and comparability analysis. These two stages are then translated into procedural harmonization through risk assessment, audits, Advance Pricing Agreements (APAs), Mutual Agreement Procedures (MAPs), appeals, and litigation. This process requires institutional harmonization so that the DGT, auditors, APA/MAP officials, the Tax Court, and the Supreme Court possess consistent capacity and understanding. Meanwhile, the harmonization of information and case law serves as a supporting mechanism by providing guidelines, data, rulings, and APA and MAP information that can enhance consistency and predictability.

The flowchart in Figure 1 illustrates that these five dimensions are not standalone stages but rather form an interconnected legal enforcement architecture. Normative harmonization provides legal legitimacy; substantive harmonization ensures consistency in economic analysis; procedural harmonization provides certainty regarding the process; institutional harmonization ensures implementation by competent institutions; and the harmonization of information and case law strengthens transparency and consistency in interpretation. The integration of these five dimensions is ultimately aimed at preventing base erosion and profit shifting (BEPS) while reducing the risk of double taxation.

Thus, Figure 1 underscores that legal certainty in transfer pricing enforcement stems not only from clear rules but also from the consistent application of those rules across all stages of enforcement. At the same time, tax justice is achieved when a country is able to protect its tax base based on the arm's-length principle without resulting in double taxation or disproportionate treatment of taxpayers. This model therefore offers a harmonization approach that moves from regulatory alignment toward integrated enforcement, with the ultimate goal of striking a balance between the state's fiscal interests and the protection of taxpayers' rights.

a. Model Implementation Strategy

To ensure the model does not remain merely a conceptual framework, its implementation can be carried out in phases. The implementation of the Model for Harmonizing Transfer Pricing Law Enforcement and Double Taxation Agreements can be carried out in phases through seven interrelated stages. The first stage is regulatory alignment, which involves harmonizing the Tax Code, Government Regulations, Minister of Finance Regulations, Double Taxation Agreements (DTAs), and the Multilateral Instrument (MLI). This stage involves the Government and the Directorate General of Taxes (DGT) with the aim of establishing a coherent regulatory framework, so that the relationship between domestic law and international tax instruments can be understood more clearly and consistently.

The second stage is substantive standardization, which is carried out through the standardization of the application of function, asset, and risk (FAR) analysis, the selection of transfer pricing methods, and the identification and testing of comparables . This stage is primarily the responsibility of the DJP and is aimed at producing more consistent and justifiable transfer pricing adjustments. Such standardization is essential to ensure that differences in audit results are not solely due to variations in auditors' approaches to understanding transaction characteristics or selecting the methods used.

The third stage is risk-based administration, which involves the application of risk indicators and compliance assessments to identify transactions or taxpayers requiring further examination. The DGT plays a leading role in this stage by directing audit resources toward transactions with higher transfer pricing risk levels. The expected outcome is a more targeted and proportionate audit process, while simultaneously reducing the audit burden on taxpayers with adequate compliance and documentation.

The fourth stage is preventive resolution, which focuses on strengthening the Advance Pricing Agreement (APA) mechanism and consultations between taxpayers and tax authorities. Through its APA function, the DGT plays a role in providing a framework for preventive resolution of transactions that have the potential to lead to differences in interpretation. This phase is expected to prevent disputes before corrections or disputes arise, thereby establishing certainty regarding transfer pricing treatment at an earlier stage.

The fifth stage is international coordination through the strengthening of the Mutual Agreement Procedure (MAP) and the role of the competent authority. The DGT and officials serving as the competent authority must enhance coordination with the tax authorities of partner countries to resolve tax differences arising from cross-border transactions. The primary outcomes of this stage are the reduction of the risk of double taxation and the enhancement of the effectiveness of international tax dispute resolution.

The sixth stage is judicial harmonization, which involves strengthening guidelines for the interpretation and application of minimum standards in the drafting of rulings on transfer pricing cases. This stage involves the Tax Court and the Supreme Court as institutions responsible for ensuring that the application of transfer pricing laws and tax treaties is carried out consistently. These interpretation guidelines and minimum standards for rulings are expected to foster consistency in case law, particularly regarding the assessment of the basis for adjustments, transfer pricing methods, comparables, economic evidence, and the application of DTAA provisions.

The seventh stage is information integration through the development and integration of a database that includes court rulings, APAs, MAPs, as well as various guidelines and information relevant to transfer pricing. The DGT and the Tax Court are the key actors in the development of this information system. Information integration is expected to result in better access to information and enhance legal predictability, so that taxpayers, auditors, and judicial institutions can refer to relevant information and practices when handling similar transactions or legal issues.

These seven stages demonstrate that the implementation of harmonization must be understood as an integrated and ongoing process, rather than as a standalone regulatory change. Regulatory alignment provides a normative foundation, substantive standardization ensures consistency in transfer pricing analysis, and risk-based administration enhances the effectiveness of audits. Furthermore, preventive resolution and international coordination serve to reduce the potential for disputes and double taxation, while judicial harmonization and information integration strengthen the consistency and predictability of law enforcement. Thus, these seven stages are collectively aimed at achieving legal certainty, fiscal justice, protection of the tax base, and the prevention of double taxation in the enforcement of transfer pricing and tax treaties in Indonesia. These stages demonstrate that reforms do not have to be implemented all at once. Initial priority can be given to standardizing audits and strengthening APAs/MAPs ( ) because these two aspects are directly related to the sources of disputes. Subsequently, information systems and case law can be developed to enhance long-term consistency.

The proposed model contributes to the theory of legal harmonization by expanding the meaning of harmonization from the alignment of norms to the integration of law enforcement processes. Within the framework of legal harmonization, compatibility, coherence, and pluralism are required. This research model translates these three principles into the context of transfer pricing. Compatibility is achieved through the alignment of domestic law, tax treaties (P3B), the Multilateral Instrument (MLI), and international standards. Coherence is achieved through the standardization of methods, procedures, authorities, and interpretations. Meanwhile, pluralism is achieved by maintaining Indonesia's national legal authority and character while accommodating the need for international coordination.

Thus, the novelty of this research does not lie in the introduction of the arm's-length principle or BEPS—which have already become part of the international literature—but rather in the formulation of a legal enforcement harmonization architecture that simultaneously connects these five dimensions. This model is designed to bridge the gap between das sollen—that is, clear, consistent, and predictable law—and das sein, which consists of differences in methods, interpretations, corrections, disputes, and rulings. Previous research has also identified this gap as one of the primary issues in Indonesia's transfer pricing system.

Ultimately, this harmonization model positions legal certainty and fiscal justice as outcomes that must be achieved simultaneously. Legal certainty provides predictability for taxpayers and limits administrative discretion, while fiscal justice ensures that the state can continue to protect its tax base from BEPS practices. Therefore, the model's success is measured not only by increased revenue but also by the consistency of audits, a reduction in disputes, improved effectiveness of APAs and MAPs, the quality of rulings, the prevention of double taxation, and increased predictability for taxpayers. With this approach, the harmonization of transfer pricing and tax treaties is not merely an agenda for regulatory change, but a reform of the law enforcement system that links norms, economic substance, procedures, institutions, and information. This model preserves Indonesia's fiscal sovereignty while enabling Indonesia to consistently fulfill its international tax commitments.

CONCLUSION

This study shows that the main issues in the enforcement of transfer pricing laws and Double Taxation Avoidance Agreements (DTAs) in Indonesia are not primarily caused by regulatory gaps, but rather by the lack of optimal harmonization among legal norms, the application of the arm's-length principle, audit procedures and dispute resolution, institutional capacity, as well as information and case law. This lack of harmonization can lead to differing interpretations regarding the accurate delineation of transactions, the analysis of functions, assets, and risks, the selection of methods and comparables, as well as the audit and dispute resolution processes. These conditions result in reduced legal certainty and predictability for taxpayers and an increased risk of double taxation. A comparative study of Singapore, Malaysia, Japan, and Australia shows that legal certainty depends not only on the comprehensiveness of regulations but also on the integration of regulations with administrative practices through risk-based compliance, audit guidelines, consultations, APAs, MAPs, and effective dispute resolution mechanisms. Based on these findings, this study formulates a Model for the Harmonization of Transfer Pricing Enforcement and Double Taxation Agreements (DTAs) consisting of five mutually integrated dimensions: normative, substantive, procedural, institutional, and information and jurisprudence. Normative harmonization focuses on aligning domestic laws, DTAs, the Multilateral Instrument (MLI), and international standards; substantive harmonization ensures consistency in the application of the arm's length principle; procedural harmonization integrates risk assessment, audits, APAs, MAPs, appeals, and litigation; institutional harmonization strengthens the capacity and consistency among stakeholders; while information and jurisprudence harmonization enhances transparency, access to information, and the predictability of law enforcement. The main contribution of this research lies in the development of the concept of harmonization—from merely aligning norms to integrating law enforcement systems—by positioning legal certainty and fiscal justice as goals that must be achieved simultaneously.

In practice, the model can be implemented by strengthening transfer pricing audit guidelines, adopting risk-based compliance, enhancing the effectiveness of APAs and MAPs, strengthening the expertise of auditors and judges in cross-border transactions, and developing an integrated database on guidelines, rulings, APAs, MAPs, and developments in transfer pricing interpretations. Thus, Indonesia does not require a complete overhaul of its existing legal framework, but rather needs to strengthen the coherence and integration among regulations, administration, dispute resolution, and the judiciary. The success of the reform is measured not only by increased tax revenue but also by greater legal certainty, consistent application of the arm's length principle, the effectiveness of dispute prevention and resolution, and the system's ability to prevent double taxation while still protecting Indonesia's tax base.

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